

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

JOSEFINA ROQUE AND PERLA
LEDEZMA, INDIVIDUALLY, A/N/F
SXXX RXXX, MINOR CHILD,
Plaintiffs,

Cause No.

v.
VICTORIA'S SECRET STORES, LLC,
Defendant.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332(a), 1441(a) and 1446, and the applicable Local Rules of the United States District Court for the Southern District of Texas, Defendant Victoria's Secret Stores, LLC ("Victoria's Secret") hereby removes this action from the 445th District Court of Cameron County, Texas to the United States District Court for the Southern District of Texas. In support thereof, Victoria's Secret states and avers as follows:

1. On or about February 18, 2021, Plaintiffs Josefina Roque and Perla Ledezma, individually, a/n/f Sxxx Rxxx, Minor Child ("Plaintiffs") filed an Original Petition in a civil action for money damages in the 445th District Court of Cameron County, Texas against Victoria's Secret, Cause No. 2021-DCL-00985 (the "State Action").

2. The documents attached to this Notice as Exhibit "A" constitute all of the process and pleadings served and filed in the State Action to date, pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.

3. A copy of the Original Petition was served upon Victoria's Secret's registered agent on February 23, 2021.

4. This Notice of Removal ("Notice") is filed in the United States District Court for the Southern District of Texas, within the district and division embracing the place where the State Action was filed, as required by 28 U.S.C. §§ 1332 and 1441(a).

5. Plaintiffs are citizens of the State of Texas.

6. Victoria's Secret is a Delaware limited liability company with its principal place of business in Ohio. Victoria's Secret is not a resident of Texas. Victoria's Secret is a wholly owned subsidiary of Retail Store Operations, Inc., a Delaware corporation with its principal place of business in Ohio. For purposes of removal, Victoria's Secret is a citizen of Delaware and Ohio.

7. Therefore, complete diversity of citizenship exists between Plaintiffs and Victoria's Secret.

8. Plaintiffs' counsel sent a letter dated August 6, 2020 to Victoria's Secret wherein Plaintiffs submitted a settlement demand "for the full amount of [Victoria's Secret's] policy limits."

9. At the time of the alleged incident, Victoria's Secret was self-insured for an amount far in excess of \$75,000.

10. Plaintiffs' Original Petition includes the following: "Plaintiffs' seek monetary relief of \$250,000.00 or less. TEX. R. CIV. P. 47. More specifically, Plaintiffs seek monetary relief not to exceed \$75,000.00."

11. Given Plaintiffs' pre-suit demand, the sum demanded in Plaintiffs' Original Petition is not made in good faith, as required by 28 U.S.C. § 1446(c)(2), and is nothing more than an attempt to avoid federal jurisdiction.

12. Accordingly, the Court should look beyond Plaintiffs' Original Petition to determine the amount in controversy and find that the amount in controversy exceeds \$75,000.00, exclusive of costs, interest and attorney fees. *See* 28 U.S.C. §§1332(a) and 1446(C)(2)(b).

13. This Notice is timely as it is being filed within thirty (30) days of receipt by Victoria's Secret of Plaintiffs' Original Petition. *See* 28 U.S.C. § 1446(b).

14. The undersigned has served a notice of the removal of this action on Plaintiffs by serving their counsel with this Notice and has also filed a copy of this Notice and all attachments thereto with the Clerk of the 445th District Court of Cameron County, Texas.

15. Victoria's Secret has satisfied all procedural requirements with respect to diversity of citizenship, amount in controversy and timing; therefore, removal to this Court is proper. *See* 28 U.S.C. §§ 1332, 1441, and 1446.

WHEREFORE, Victoria's Secret removes this action to this Court and respectfully requests this case be entered upon the docket of the United States District Court for the Southern District of Texas, pursuant to 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted,

/s/ Christopher L. Kurzner

Christopher L. Kurzner
State Bar No. 11769100
Kurzner PC
1700 Pacific Avenue, Suite 1870
Dallas, Texas 75201
Telephone: 214-442-0800
Telecopier: 214-442-0850
ckurzner@kurzner.com

*Attorney for Defendant Victoria's Secret Stores,
LLC*

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2021, I electronically transmitted the foregoing document to the Clerk of the Court using the CM/ECF System for filing and transmittal to all counsel of record by U.S. Mail, postage prepaid, as follows:

Jorge A. Green
Leticia Garza
David M. Roerig
THE GREEN LAW FIRM, P.C.
34 S. Coria St.
Brownsville, Texas 78520.

/s/ Christopher L. Kurzner

Christopher L. Kurzner